

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**CARLOS HOSEA,
Plaintiff,**

vs.

CIV NO. 19-CV-0811-SMV

**ANDREW SAUL,
Commissioner of Social Security,
Defendant.**

ORDER

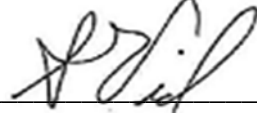
Defendant's Stipulated Motion for Fees Under the Equal Access to Justice Act (EAJA) is GRANTED.

Defendant shall pay Plaintiff \$5,000.00 in attorney fees. Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. However, the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

Under *Astrue v. Ratliff*, 130 S.Ct 2521, 2528-29 (2010), EAJA fees awarded by this Court belong to the Plaintiff and are subject to offset under the Treasury Offset Program (31 U.S.C. § 3716(c)(3)(B) (2006)). This Court therefore orders the EAJA fees to be paid to Plaintiff. If, after receiving the Court's EAJA fee order, the Commissioner (1) determines that Plaintiff has properly assigned his right to EAJA fees to his attorney; (2) determines that Plaintiff does not owe a debt that is subject to offset under the Treasury Offset Program; and (3) agrees to waive the requirements of the Anti-Assignment Act, then the EAJA fees will be made payable to Plaintiff's attorney. However, if there is a debt owed under the Treasury Offset Program, the

Commissioner cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining EAJA fees after offset will be paid by a check made out to Plaintiff but delivered to Plaintiff's attorney.

BY THE COURT:



THE HONORABLE STEPHAN M. VIDMAR
United States Magistrate Judge

Submitted on 11/9/20 by:

/s/ Kirsten Westerland
KIRSTEN WESTERLAND
Special Assistant United States Attorney
Office of the General Counsel
Social Security Administration
1961 Stout Street, Suite 4169
Denver, CO 80294-4003
(303) 844-1949
kirsten.westerland@ssa.gov
Attorney for Defendant

Decker Law Office, LLC
Plaintiff's counsel

Approved via email on 11/9/20
BENJAMIN EILERS DECKER
P.O. Box 92740
Albuquerque, NM 87199
Tel: 505.369.6272
Fax: 505.395.9296
ben@deckerlawoffice.com